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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/674,415   | 10/01/2003  | Bartley Mark Hirst   | 10014356-1          | 5138             |
| 22879  | 7590        | 07/15/2005           | EXAMINER            |                  |
| HEWLETT PACKARD COMPANY<br>P O BOX 272400, 3404 E. HARMONY ROAD<br>INTELLECTUAL PROPERTY ADMINISTRATION<br>FORT COLLINS, CO 80527-2400 |             |                      | GLEITZ, RYAN M      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2852                |                  |

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/674,415

Applicant(s)

HIRST ET AL.

Examiner

Ryan Gleitz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.  
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 9-33 is/are pending in the application.  
 4a) Of the above claim(s) 1-7 and 9-22 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 23-33 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Newly submitted claims 1-7 and 9-22 are directed to an invention that is independent or distinct from the invention originally claimed.

This application contains claims directed to the following patentably distinct species:

Species I: A control mechanism including software.

Species II: A control mechanism including hardware.

These inventions are independent because the specification describes them as two distinct embodiments. The control mechanism may comprise a circuit or alternatively, a processor with software. See [0017].

The originally presented claims were directed to Species II, a fusing system with a control mechanism as a control circuit including a switch and comparison circuit. For example, claims 18-22 recite the specifics of the hardware.

Newly amended claims 1-7 and 9-22 claim the software of Species I.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-7 and 9-22 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogawahara et al. (US 6,411,785).

Ogawahara et al. disclose a method for controlling temperature for a fusing system including a fuser roller (51); a pressure roller (53) arranged parallel to the fuser roller (51) for providing pressure to a medium; a heater (69) external to the fuser roller (51) and applying heat to the fuser roller (51) when the heater (69) is operated to apply heat.

Regarding claims 23 and 26, heat is reduced when the temperature of the roller (55) is determined to be above a temperature, which reads on either the heater, the fuser roller, and the pressure roller is determined to be above a predetermined temperature. See col. 11, lines 16-22.

Regarding claim 24, the predetermined maximum heater temperature is well above 180 degrees C as shown by time 2 in figure 10, which reads on about 250 degree C. See col. 11, line 22.

Regarding claim 25, the method includes increasing heat provided by the heater when the temperature of the heater is determined to fall below a predetermined target heater temperature, as shown by figure 10 at time 4.

Regarding claims 27 and 28, the heater (69) is separated and the fixing roller is stopped (col. 14, lines 50-53), which reads on the control mechanism controls the heater to not apply heat or reduce the heat provided by the heater when the fuser roller is determined to not be rotating.

Regarding claims 29-31, the control mechanism (63) controls the heater (69) to reduce the heat provided by the heater or not apply heat when the temperature of the fuser roller is determined to be above a predetermined operating temperature. See figure 14, ST205-207.

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THcont can be 160 degrees C (col. 20, line 56), which reads on the predetermined temperature is about 180 degrees C.

Regarding claim 32 and 33, the control mechanism (63) controls the heater (69) to reduce the heat provided by the heater when the temperature of the pressure roller (53) is determined to be above a predetermined pressure roller temperature. See figure 14, ST 202-204. While ST204 only provides that the control mechanism executes operation for separating pressure roller from fixing roller, separating the pressure roller would reduce the heat provided by the heater to the pressure roller.

### *Response to Arguments*

Applicant's arguments filed 22 June 2005 regarding 23-33 have been considered, but they are not persuasive.

Applicant submits that Ogawahara et al. does not show the temperature of the pressure roller to be a factor to be considered by the control software. Response, page 10, lines 13-19.

First, claim 23 does not require software.

Second, claim 23 does not require that the pressure roller be a factor. Claim 23 merely requires either the heater, the fuser roller, and the pressure roller be a factor. The language "either the heater, the fuser roller, and the pressure roller" is, under the broadest reasonable interpretation, is taken to mean "one of the heater, the fuser roller, or the pressure roller" because the word either is singular.

Finally, even if claim 23 did require software or the pressure roller as a factor to be considered by the software. Figure 7 of Ogawahara et al. shows a CPU, which is run by software

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instruction, and the pressure roller temperature is detected by sensor (67) and sent to the control system. See col. 20, lines 21-31.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

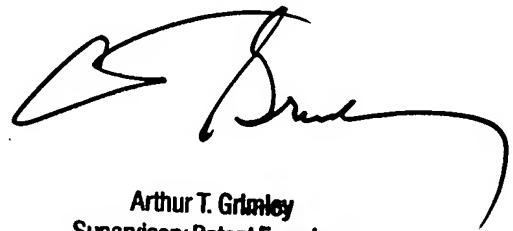
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Gleitz whose telephone number is (571) 272-2134. The examiner can normally be reached on Monday-Friday between 9:00AM and 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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